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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Inventors: James F. Zucherman, et al.  
Appl. No.: 10/037,236  
Confirm. No.: Unknown  
Filed: November 9, 2001  
Title: INTER-SPINOUS PROCESS IMPLANT AND METHOD  
WITH DEFORMABLE SPACER

PATENT APPLICATION

Art Unit: Unknown  
Examiner: Unassigned

Customer No. 23910

## CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

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(Attorney Signature)

Scott D. Sanford, Reg. No. P51,170  
Signature Date: January 23, 2002

## TRANSMITTAL LETTER

Commissioner for Patents  
Washington, DC 20231

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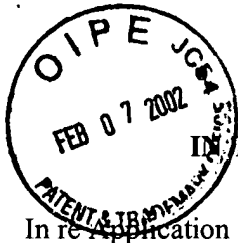
Respectfully submitted,

Date: 1.23.02

By:

Scott D. Sanford  
Reg. No. P51,170

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Telephone: (415) 362-3800



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application

Inventors: James F. Zucherman, et al.  
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(Attorney Signature)

Scott D. Sanford, Reg. No. P51,100  
Signature Date: January 23, 2002

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
Washington, DC 20231

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Notwithstanding anything stated herein, a copy of each of the references listed herein is attached to this disclosure.

This disclosure may include references previously cited. However, these references are attached hereto for completeness.

***Enclosed with this statement are the following:***

✓

Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.

- ✓ A copy of each cited document as required by 37 C.F.R. §1.98. Copies are not submitted of documents previously submitted by the applicant in a parent application from which benefit under 35 U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an information disclosure statement submitted in the parent application which complies with the Sept. 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c). If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).
- ✓ Copies of the International Search Reports dated November 16, 2001 and November 19, 2001 and cited references..

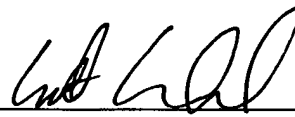
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-- OR --
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-- OR --
  - (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
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Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: 1.23.02

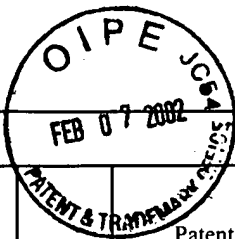
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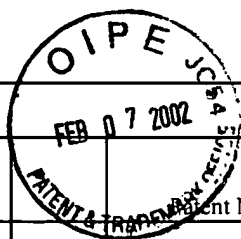
Form PTO-1449 (Substitute) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE <b>INFORMATION DISCLOSURE STATEMENT          BY APPLICANT</b> (Use several sheets if necessary)	Attorney Docket Number <b>KLYC-01056US8</b>	Serial/Patent Number <b>10/037,236</b>
	Applicant/Patent Owner <b>Zucherman et al.</b>	
	Filing/Issue Date <b>November 9, 2001</b>	Group Art Unit: <b>Unknown</b>

## U.S. PATENTS

Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	U1	6,234,705 B1	5-2001	Troxel			
	U2	6,156,067	12-2000	Bryan et al.			
	U3	6,113,639	9-2000	Ray et al.			
	U4	6,022,376	2-2000	Assell et al.			
	U5	6,001,130	12-1999	Bryan et al.			
	U6	5,976,186	11-1999	Bao et al.			
	U7	5,888,226	3-1999	Rogozinski			
	U8	5,888,224	3-1999	Beckers et al.			
	U9	5,885,299	3-1999	Winslow et al.			
	U10	5,865,846	2-1999	Bryan et al.			
	U11	5,824,098	10-1998	Stein			
	U12	5,766,252	6-1998	Henry et al.			
	U13	5,725,582	3-1998	Bevan et al.			
	U14	5,702,455	12-1997	Saggar			
	U15	5,676,702	10-1997	Ratron			
	U16	5,674,296	10-1997	Bryan et al.			
	U17	5,674,295	10-1997	Ray et al.			
	U18	5,653,761	8-1997	Pisharodi			
	U19	5,645,599	7-1997	Samani			
	U20	5,645,597	7-1997	Krapiva			
	U21	5,609,634	3-1997	Voydeville			
	U22	5,593,409	1-1997	Michelson			
	U23	5,562,736	10-1996	Ray et al.			
	U24	5,549,679	8-1996	Kuslich			
	U25	5,540,689	7-1996	Sanders et al.			



U.S. PATENTS						
Examiner Initial	Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	U26	5,534,029	7-1996	Shima		
	U27	5,534,028	7-1996	Bao et al.		
	U28	5,514,180	5-1996	Heggeness et al.		
	U29	5,505,732	4-1996	Michelson		
	U30	5,496,318	3-1996	Howland et al.		
	U31	5,470,333	11-1995	Ray		
	U32	5,458,643	10-1995	Oka et al.		
	U33	5,458,641	10-1995	Ramirez Jimenez		
	U34	5,458,638	10-1995	Kuslich et al.		
	U35	5,443,514	8-1995	Steffee		
	U36	5,415,661	5-1995	Holmes		
	U37	5,395,372	3-1995	Holt et al.		
	U38	5,390,683	2-1995	Pisharodi		
	U39	5,387,213	2-1995	Breard et al.		
	U40	5,352,225	10-1994	Yuan et al.		
	U41	5,306,309	4-1994	Wagner et al.		
	U42	5,304,178	4-1994	Stahurski		
	U43	5,290,312	3-1994	Kojimoto et al.		
	U44	5,263,953	11-1993	Bagby		
	U45	5,258,031	11-1993	Salib et al.		
	U46	5,192,327	3-1993	Brantigan		
	U47	5,180,381	1-1993	Aust et al.		
	U48	5,167,662	12-1992	Hayes et al.		
	U49	5,123,926	6-1992	Pisharodi		
	U50	5,092,866	3-1992	Breard et al.		
	U51	5,084,049	1-1992	Asher et al.		
	U52	5,059,194	10-1991	Michelson		
	U53	5,059,193	10-1991	Kuslich		
	U54	5,055,104	10-1991	Ray		

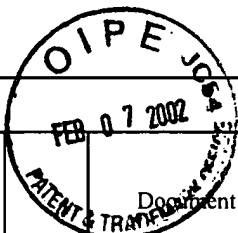


## U.S. PATENTS

Examiner Initial	Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	U55 5,047,055	9-1991	Bao et al.			
	U56 5,035,716	7-1991	Downey			
	U57 5,026,373	6-1991	Ray et al.			
	U58 5,015,247	5-1991	Michelson			
	U59 5,011,484	4-1991	Breard			
	U60 4,969,888	11-1990	Scholten et al.			
	U61 4,961,740	10-1990	Ray et al.			
	U62 4,946,378	8-1990	Hirayama et al.			
	U63 4,936,848	6-1990	Bagby			
	U64 4,932,975	6-1990	Main et al.			
	U65 4,913,134	4-1990	Luque			
	U66 4,904,261	2-1990	Dove et al.			
	U67 4,904,260	2-1990	Ray et al.			
	U68 4,878,915	11-1989	Brantigan			
	U69 4,834,757	5-1989	Brantigan			
	U70 4,790,303	12-1988	Steffee			
	U71 4,772,287	9-1988	Ray et al.			
	U72 4,743,256	5-1988	Brantigan			
	U73 4,714,469	12-1987	Kenna			
	U74 4,696,290	9-1987	Steffee			
	U75 4,685,447	8-1987	Iversen et al.			
	U76 4,657,550	4-1987	Daher			
	U77 4,643,178	2-1987	Nastari et al.			
	U78 4,636,217	1-1987	Ogilvie et al.			
	U79 4,611,582	9-1986	Duff			
	U80 4,604,995	8-1986	Stephens et al.			
	U81 4,599,084	7-1986	Nashef			
	U82 4,599,086	7-1986	Doty			
	U83 4,554,914	11-1985	Kapp et al.			

U.S. PATENTS							
Examiner Initial	Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date	
	U84 4,553,273	11-1985	Wu				
	U85 4,501,269	2-1985	Bagby				
	U86 4,479,491	10-1984	Martin				
	U87 4,401,112	8-1983	Rezaian				
	U88 4,369,769	1-1983	Edwards				
	U89 4,349,921	9-1982	Kuntz				
	U90 4,309,777	1-1982	Patil				
	U91 3,875,595	4-1975	Froning				
	U92 3,867,728	2-1975	Stubstad et al.				
	U93 3,648,691	3-1972	Lumb et al.				
	U94 3,426,364	2-1969	Lumb				
	U95 2,677,369	5-1954	Knowles				
FOREIGN PATENT DOCUMENTS							
Examiner Initial	Document Number	Publication Date	Country	Class	Subclass	Trans- lation Yes   No	
	F1 WO 01/28442 A1	4-2001	PCT			*	
	F2 WO 00/04851	2-2000	PCT			✓	
	F3 WO 00/13620	3-2000	PCT			✓	
	F4 WO 00/13619	3-2000	PCT			✓	
	F5 FR 2782911 A1	3-2000	France			✓	
	F6 FR 2780269 A1	12-1999	France			✓	
	F7 WO 99/59669	11-1999	PCT			✓	
	F8 WO 99/42051	8-1999	PCT			*	
	F9 WO 99/40866	8-1999	PCT			*	
	F10 WO 99/26562	6-1999	PCT			*	
	F11 WO 98/48717	11-1998	PCT			*	
	F12 EP 0767636 B1	4-1997	EPO			✓	
	F13 FR 2722980 A1	2-1996	France			✓	





## FOREIGN PATENT DOCUMENTS

Examiner Initial	Document Number	Publication Date	Country	Class	Subclass	Translation	
						Yes	No
	F14	EP 0677277 A2	10-1995	EPO			✓
	F15	FR 2717675	9-1995	France			✓
	F16	FR 2707864 A1	1-1995	France			✓
	F17	WO 94/26192	11-1994	PCT		*	
	F18	WO 94/21185	9-1994	PCT		✓	
	F19	FR 2681525 A1	3-1993	France		*	
	F20	WO 91/16018	10-1991	PCT		✓	
	F21	2015507	1-1991	Canada		✓	
	F22	WO 90/00037	1-1990	France		✓	
	F23	SU 1484348 A1	6-1989	Soviet Union		*	
	F24	EP 322334 A1	12-1988	EPO		*	
	F25	DE 2821678 A1	4-1980	Germany		*	
	F26	EP 146347 A1	12-1984	EPO		*	
	F27	EP 140790 A2	10-1984	EPO			✓
	F28	DE 3113142 A1	1-1982	Germany			✓

\* English Abstract attached

OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)

O1	Minns, R.J., et al., <i>Preliminary Design and Experimental Studies of a Novel Soft Implant for Correcting Sagittal Plane Instability in the Lumbar Spine</i> , SPINE Volume 22, Number 16, pp.1819-1825, © 1997, Lippincott-Raven Publishers
O2	Waldemar Link, brochure entitled <i>Wirbelsäulen-Chirurgie: Instrumentarium Und Implantate Zur Wirbelsäulen-Chirurgie</i> (Spinal Surgery: Instrumentation and Implants for Spinal Surgery), Waldermar Link, Hamburg, Germany
O3	Haruo Tsuji, et al., <i>Ceramic Interspinous Block (CISB) Assisted Anterior Interbody Fusion</i> , Journal of Spinal Disorders, Vol.3, No.1, pp.77-86, ©1990 Raven Press, Ltd., New York
O4	Richard W. Porter, MD, FRCS, FRCSE, <i>Spinal Stenosis and Neurogenic Claudication</i> , SPINE Volume 21, Number 17, pp.2046-2052, ©1996, Lippincott-Raven Publishers

Examiner

Date Considered

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